IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 14140 of 2006
Date of decision 5 .9.2006

Kanchan Singh .. petitioner

Versus

State of Haryana and others .. Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Mr.Jagat Singh, Advocate for the petitioner

M.M.Kumar, J.

The petitioner was dismissed from service after holding enquiry under the Haryana Civil Services (Punishment & Appeal) Rules, 1987 wherein he was found guilty of various allegations. The petitioner did not file any reply to the charge sheet which was issued to him on 30.11.1988 within a period of 15 days. The Enquiry Officer appointed by the department proceeded with the enquiry and submitted the Enquiry Report on 14.12.1989 (Annexure P.1). The petitioner was issued a show cause notice alongwith the enquiry report. Thereafter he was served with a second show cause notice on 15.1.1990. The petitioner is stated to have admitted that during the time of preparation of jamabandi on account of inadvertent mistake some error in the revenue entries in respect of khasra no,. 388/1 and khewat no. 114/203 was committed. Taking the afore-mentioned submission as admission of the allegations and after granting opportunity of personal hearing to the petitioner on 15.7.1991 where again he conceded the afore-mentioned position, the Punishing Authority reached the conclusion that the petitioner, who was working as Patwari, had made cuttings and over-writing in order to give undue advantage to some special

persons which is reflection on his integrity. Therefore, he was ordered to be removed from service on 15.7.1991. Against the afore-mentioned order an appeal was filed on 19.2.1999 (Annexure P.8) after inordinate delay of more than 8 years. The appeal was dismissed on the ground of delay vide order dated 27.8.2003 (Annexure P.10) which is now subject matter of challenge in the instant petition.

The only argument raised under Rule 13 of the Rules by the learned counsel for the petitioner is that delay in filing of appeal stands explained as the petitioner was facing criminal trial before the Chief Judicial Magistrate, Bhiwani which culminated in his acquittal vide order dated 17.9.1998 (Annexure P.5). According to the learned counsel, the delinquent employee was waiting for the result of the criminal trial and it was soon thereafter on 19.2.1999 that the appeal was filed before the Appellate Authority i.e. the Commissioner, Rohtak Division, Rohtak. According to the learned counsel once he is acquitted in criminal trial then he should also be deemed to be exonerated in departmental enquiry.

Having heard the learned counsel at some length we are of the view that no interference of this Court would be warranted because the Enquiry Officer has submitted his report on 14.12.1989 and the order of dismissal was passed on 15.7.1991 after the petitioner was granted opportunity of personal hearing by the Punishing Authority after supply of a copy of enquiry report. It cannot be accepted that the petitioner was not aware of the enquiry report or the order of dismissal passed on 15.7.1991. The filing of appeal on 19.2.1999 (Annexure P.8) after a delay of more than eight years speaks volume about the interest of the petitioner in challenging the order of his removal from service. The petitioner has been casual and the

delay has infact remained unexplained. We are further of the view that before passing the order of removal from service, the petitioner was placed under suspension. He had no knowledge of the order of his removal passed on 15.7.1991 he would have continued to raise the demand for subsistence allowance. On our asking, learned counsel for the petitioner has not been able to apprise us, if any, such demand was raised by the petitioner before the respondent authorities which further strengthens the finding that the petitioner was fully aware of the order dated 15.7.1991. Even after the order by the appellate authority dated 27.8.2003 (Annexure P.10), the petitioner has approached this Court almost after a period of 3 years

In view of the above, the order of the Appellate Authority is liable to be upheld as it has been rightly observed that the appeal could not be filed after more than eight years. Therefore, we refuse to entertain this petition and dismiss the same on the ground of delay and laches as well. Dismissed.]

(M.M.Kumar)
Judge

(M.M.S.Bedi)
Judge

5.9.2006
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